

## **EXHIBIT B**

**CAUSE NO.** 2005-43087

113

CHERI LA BLANCHE, MD.

**Plaintiff.**

vs.

NATIONAL BOARD OF MEDICAL EXAMINERS, ( NBME )  
EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL  
GRADUATES, ( ECFMG )

## **Defendants.**

IN THE \_\_\_\_\_  
CLERK'S OFFICE  
HARRIS COUNTY, TEXAS  
JULY - 1 PM 12:54  
DISTRICT COURT OF  
HARRIS COUNTY, TEXAS

DEPUTY

**PLAINTIFF'S PETITION FOR  
MANDATORY INJUNCTION  
PRELIMINARY & PERPETUAL**

## PREFACE

Jurisdiction is Proper and Plaintiff files this suit to secure the *Reasonable and Equitable* Right to execute Defendant's United States Medical Licensing Examination, (USMLE) in **WRITING** ; as opposed to **COMPUTER**. Plaintiff will show Indisputable and Preponderant Evidence to support: Opposition; and the Choice to secure and execute a WRITTEN EXAMINATION. Please see the subscribed comprehensive reasons and their corresponding Exhibit evidence.

## BACKGROUND

Defendants are a private nonprofit organization that contracts with our nations medical Universities / Colleges and States; for the creation; administration; and procurement of uniform standardized medical examinations, for Testing and Licensure. Plaintiff is a Native and Resident of Texas. Who on MAY 17, 2005 demanded and was denied a written exam, due to **NO CONFIDENCE** in Computer Examinations and their Security.

A.

Texas Administrative Code: 22 TAC § 163.6

( Exhibit # 4 ) - Licensure testing is divided into 3 parts: STEP 1 - \$685 ; STEP 2 (a) - \$685 ; STEP 2 (b) - \$1,200 ; STEP 3, is administered and procured by the States (Texas) - \$625 . Inconsistent with Reason; Equity; and State Law. Defendants

do not allow the Choice of Written Examinations. See Texas Administrative Code - Title 22, Part 9. Texas State Board Of Medical Examiners; 22 TAC § 163.6 - Administration of Examinations. **(a) The board shall administer the Texas medical jurisprudence examination in writing or by electronic means, at times and places designated by the board.** ( Note that: or by electronic means is actually and precisely, underlined and emphasized, )

B.

**Reasonable and Equitable**

Due to the sheer magnitude and importance of this exam, and to the examinee's future; Relative to the years of Education; Financial; Family; and Personal Sacrifice. It is completely "reasonable and equitable" to facilitate the confidence and choice of a written exam. Notably considering the exam's minimum total cost of **\$3,195**. And for failure at any Step, retests require additional full price payments.

C.

**ASSOCIATION OF AMERICAN MEDICAL COLLEGES, (AAMC)**  
November 6, 2004  
**National Board of Medical Examiners (NBME) Update**

( Exhibit # 5 ) - " Irregularities with Test Scoring / Score Reporting: *In the past several months, the NBME has experienced two errors in reporting of test scores. The first error occurred with the Biochemistry subject exam, and involved a mistake in calculating scores for some students who had taken this exam. The second error involved misreporting of mean Step 1 scores on score reports mailed to examinees (.... an error was made in calculating the mean score included on the score report sent to students.) .... **The NBME has identified the cause of these errors (a systemic problem in one case and a staff training issue in the other)** ..."*

D.

**NATIONAL BOARD OF MEDICAL EXAMINERS**  
Advisory Committee for Medical School Programs  
Meeting Summary  
November 6, 2004 - Boston, MA

( Exhibit # 6 ) - " Issues Related to Test Administration and Scoring: *Discussion began with Dr. Wartman (Board Member), relaying concerns of deans at medical schools in*

Texas about the recent errors in reported scores of the Physiology and Microbiology subject examination as well as the text error that occurred in the USMLE Step 1 examinee score reports in July 2004. Dr. Melnick (Board Member and now President), addressed both issues. .... Calibration errors caused the scores for examinees to be lower by six to seven points (Physiology) and one to two points (Microbiology). .... The Step 1 examinee score reports listed a mean score that was based on the performance of an incomplete cohort of first-takers.... This error which was attributed to a psychometrician new to the program.... Dr. Melnick stated that the NBME processes over 250,000 examinations annually... The NBME may need to rethink some of its processes.... Dr. Wartman indicated that our track record as the "gold standard" can sometimes work against us, since (external groups) are used to the high reliability in the work that we do. ...."

E.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES, (AAMC)  
May 2005  
AAMC - NBME Committee Report

( Exhibit # 7 - 8 ) - [7] \* Scoring Errors: In summary, a problem with the scoring algorithm for the Step 2 CS exam ICE component was detected early this year that had the potential to affect any students who took the exam.... [8] \* Security continues to be an important concern regarding the current shelf exams. NBME staff noted that a handful of security breeches have occurred at medical schools....

F.

UNITED STATES MEDICAL LICENSING EXAMINATION, (USMLE)  
Posted April 19, 2005 / Last Updated June 15, 2005  
Problem Identified in Step 2 CS Reports Dated Jan. 12 - Mar. 30

( Exhibit # 9 - 11 ) - [9] \* During a review of data for the USMLE Step 2 Clinical Skills (CS) examination, the USMLE quality control team detected a software problem that resulted in an incorrect pass / fail classification.... The problem occurred in the computer program that assigns ratings for patient notes.... The USMLE recognizes the gravity of a change in pass / fail classification for any person. We deeply regret any disruption this problem may have caused. [10] \* The problem potentially affected only those examinees who had a Step 2 CS score report dated Jan. 12 through Mar. 30, 2005. Within this group, the

number of examinees whose overall outcome changed was limited to 51 examinees. ... We determined that in 40 instances, the examinee's classification changed from fail to pass. [11] ... We identified 11 examinees whose passing classification was changed to "results pending." ... **As of June 14**... we could not verify their performance on the Patient Note component of ICE. ... All USMLE programs incorporate a number of steps for quality control. **The Process is continuous, rigorous, and constantly reviewed.** Every time a problem occurs, we identify the causes and put safeguards in place to prevent a similar problem from happening again. ... The problem occurred in the software that processes patient notes...

[ C thru F ]

**REGARDING DEFENDANTS EFFORTS & REPORTS TO MINIMIZE SECURITY & PROBLEM NUMBERS; PLEASE NOTE THERE IS NO INDEPENDENT SOURCE; PRIVATE NOR PUBLIC TO: MONITOR; INVESTIGATE; AND CONFIRM, SUCH. SEE EXHIBIT [30].**

\* \* \* \* \*

G.

**PUBLIC BROADCASTING STATION, (PBS)**  
**\*\*\* FRONTLINE \*\*\***

**Hackers - The Risks and The Dangers Confronting: Computer Users; Corporations and Government**

Kirk Bailey  
Manager of Information Security, Frank Russell Company

( Exhibit # 12 ) - " Sizing the threat is tough. There is a whole spectrum of different threats. ... The threat of internal abuse by employees on systems incidentally, just by mistake because the systems are poorly configured, continues to rise... **This technology cannot be secured, and that's fact.** I would debate that with any vendor, with any inventor of internet technologies, with any business that is deployed... I believe it cannot be secured. **It can only be risk managed.** All the technology that underlies this

*whole internet web phenomena is technology that was meant for communication. It was not meant to conduct business. It is open technology. Everything that you have to do to secure it is . . . afterthought stuff. And because it is afterthought stuff, because it is not part of the infrastructure itself, it creates a slew of problems and costs. The fundamental problem is that vendors and people are involved in the myth of how good it is. . . .*

James Christy  
Computer Crime Investigator for the US Department of Defense

*( Exhibit # 13 ) - " . . . anybody who goes down to Best Buy or Radio Shack can buy a computer for two or three hundred dollars... And these individuals can . . . have a weapon of mass destruction sitting on their desk in their bedroom. . . I don't think that the big machines of government are tooled to address this yet. It's hard to make that adjustment quickly. There's another big difference, and that's the commercial sector. . . . You will find private sector security monitoring and securing. But once you have a problem, you probably going to have to call law enforcement.*

Executive Summary  
US General Accounting Office

*( Exhibit # 14 ) - " Attacks on Defense computer systems are a serious and growing threat. The exact number of attacks cannot be readily determined because only a small portion are actually detected and reported. However, Defense Information Systems Agency (DISA) data implies that Defense may have experienced as many as 250,000 attacks last year. DISA information also shows that attacks are successful 65 percent of the time, and that number of attacks is doubling each year, as internet use increases along with the sophistication of "hackers" and their tools. Attackers have seized control of entire Defense systems... Attackers have also stolen, modified, and destroyed data and software. Defense is taking action to address this growing problem, but faces significant challenges in controlling unauthorized access to its computer systems. . . ."*

H.

COMPUTER SECURITY INSTITUTE, (CSI)  
SAN FRANCISCO COMPUTER CRIME SQUAD OF THE FEDERAL  
BUREAU OF INVESTIGATION, (FBI)

CSI / FBI 2000  
COMPUTER CRIME AND SECURITY SURVEY

**( Exhibit # 15 - 31 )**

[15] Cyber Crime Bleeds US Corporations, Survey Shows; Financial Losses From Attacks Climb For Third Year In A Row:

*\* The aim of this effort is to raise the level of security awareness, as well as help determine the scope of computer crime in the United States. Based on responses from **503** computer security practitioners in U.S. corporations, government agencies, financial institutions, medical institutions and universities, the findings of the "2002 Computer Crime and Security Survey" confirm that the threat from computer crime and other information security breaches continues unabated and that the financial toll is mounting. "*

[22] How Many Incidents? How Many From Outside? How Many From Inside? :

How many incidents?

	1 to 5	6 to 10	11 to 30	31 to 60	Over 60	Don't Know
2000:	33%	23%	5%	2%	6%	<b>31%</b>

How many from the outside?

	1 to 5	6 to 10	11 to 30	31 to 60	Over 60	Don't Know
2000:	39%	11%	2%	4%	4%	<b>42%</b>

How many from the inside?

	1 to 5	6 to 10	11 to 30	31 to 60	Over 60	Don't Know
2000:	38%	16%	5%	1%	3%	<b>37%</b>

\* NOTE " DON'T KNOW " PERCENTAGES \*

[24] Unauthorized Use Of Computer Systems Within the Last 12 Months :

	<b>YES</b>	<b>NO</b>	<b>DONT KNOW</b>
2000:	<b>70%</b>	16%	12%

\* NOTE " YES " PERCENTAGES \*

[25] If Your Organization Has Experienced Computer Intrusion(s) Within the Last 12 Months, Which of the Following Actions Did You Take? :

	<b>Patched Holes</b>	<b>Did Not Report</b>	<b>Reported To Law Enforcement</b>	<b>Reported To Legal Counsel</b>
2000:	<b>85%</b>	44 %	25%	20%

\* NOTE " Patched Holes " & " Did Not Report " PERCENTAGES \*

[26] Internet Connections is Increasingly Cited as a Frequent Point of Attack :

	<b>INTERNAL SYSTEMS</b>	<b>REMOTE DIAL - IN</b>	<b>INTERNET</b>
2000:	<b>38%</b>	22%	59%

\* NOTE " Internal Systems " & " Internet " PERCENTAGES \*

[27 - 28] Types of Attack or Misuse Detected Within the Last 12 Months :  
 ( 90% of 581 Respondents )

	NUMBER	PERCENT
Denial of Service	158	27%
<b>Laptop</b>	<b>348</b>	<b>60%</b>
Active Wiretap	8	1%
Telecom Fraud	69	11%
<b>Unauthorized access by insiders</b>	<b>414</b>	<b>71%</b>
<b>Virus</b>	<b>499</b>	<b>85%</b>
Financial Fraud	68	11%
<b>Insider Abuse Of Net Access</b>	<b>463</b>	<b>79%</b>
System Penetration	145	25%
Telecom Eavesdropping	45	7%
Sabotage	102	17%
Theft Of Proprietary Information	118	20%

[29] Likely Sources of Attack :

	Foreign Governments	Foreign Corporations	Independent Hackers	U.S. Competitors	Disgruntled Employees
2000:	21%	26%	77%	44%	81 %

\* NOTE " Hackers " & " Disgruntled Employees " PERCENTAGES \*

[30] The Reasons Organizations Did Not Report Intrusions to Law Enforcement :

	Negative Publicity	Competitors Would Use To Advantage	Unaware That Could Report	Civil Remedy Seemed Best
2000:	<b>52%</b>	39%	13%	55%

**\* NOTE " Negative Publicity " \*  
PERCENTAGES**

**PRAYER**

Therefore in the Interest Of EQUITY and JUSTICE, Plaintiff Prays the COURT will GRANT Injunctive Relief on her behalf, pending final disposition.

Cheri La Blanche M.D.  
**CHERI LA BLANCHE, MD.**  
Plaintiff.  
12806 Southspring Dr.  
Houston, Texas 77047

## **CERTIFICATE OF INTERESTED PERSONS**

**Plaintiff :**

**CHERI LA BLANCHE, MD.  
12806 SOUTHSPRING DR.  
HOUSTON, TX. 77047**

**Defendants :**

**NATIONAL BOARD OF MEDICAL EXAMINERS, NBME  
3750 MARKET STREET  
PHILADELPHIA, PA 19104-3190  
(215) 590 - 9700**

**EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES,  
ECFMG  
3624 MARKET STREET  
PHILADELPHIA, PA 19104-2685  
(215) 386 - 5900**

**Others :**

**TEXAS STATE BOARD OF MEDICAL EXAMINERS  
P.O. BOX 2018  
AUSTIN, TX 78768-2018  
(512) 305 - 7130**

*Cheri La Blanche M.D.*  
**CHERI LA BLANCHE, MD.**  
Plaintiff.

## AFFIDAVIT OF INJUNCTION

I CHERI LA BLANCHE, verify by my hand and subscribed signature below; that the information herein is true and correct.

Cheri La Blanche, M.D.

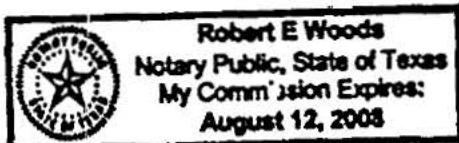
CHERI LA BLANCHE, MD.

Plaintiff.

12806 Southspring Dr.

Houston, Texas 77047

Subscribed and Sworn before me on this 1<sup>st</sup> day July, 2005.



  
Robert E Woods  
PUBLIC NOTARY

## CERTIFICATE OF SERVICE AND NOTICE OF HEARING

I hereby certify that a true and correct Copy and Notice of the foregoing was forwarded to the address of the Defendants and Interested Parties; listed and shown in the CERTIFICATE OF INTERESTED PERSONS.

Cheri La Blanche, M.D.

CHERI LA BLANCHE, MD.

Plaintiff.